

defined as the point at which the notification is entered into BIS's electronic system.

(4) *Review by other departments or agencies.* The Departments of Defense, State, and other agencies, as appropriate, may review the AGR notification. BIS must receive department or agency objections within nine business days of the referral. Unlike the provisions described in §750.4(b) of the EAR, there are no provisions for stopping the processing time of the AGR notification. If, within 11 business days after the date of registration, any reviewing agency provides a written objection that the recipient may promote international terrorism or the transaction raises nonproliferation concerns, you may not use License Exception AGR. In such cases, BIS will notify you that a license is required for the export or reexport. BIS will then process the AGR notification as a license application in accordance with the provisions described in §750.4 of the EAR, and the licensing policies set forth in the EAR. At this time, BIS may request additional information. When BIS confirms that no agency has raised an objection within eleven business days (as described in paragraph (c)(5) of this section), you may proceed with the transaction provided that you satisfy all other requirements of License Exception AGR, including the requirement to have a written contract prior to any shipment (unless a donation or commercial sample). (Note that the fact that you have been advised that no agency has objected to the transaction does not exempt you from other licensing requirements under the EAR, such as those based on knowledge of a prohibited end-use or end-user as referenced in general prohibition five (part 736 of the EAR) and set forth in part 744 of the EAR.)

(5) *Status of pending AGR notification requests.* You must contact BIS's System for Tracking Export License Applications (STELA) (<https://snapr.bis.doc.gov/stela>) for status of your pending AGR notification or verify the status in BIS's Simplified Network Applications Processing Redesign (SNAP-R) System. STELA will provide the date of registration of the AGR notification. If no department or

agency objection is raised within 11 business days, STELA will, on the twelfth business day following the date of registration, provide you with confirmation of that fact. You may not proceed with your shipment unless you confirm with either STELA or SNAP-R that no objection has been raised. If an objection is raised, STELA and SNAP-R will indicate that a license is required. The AGR notification will then be processed as a license application. In addition, BIS may provide notice of an objection by telephone, fax, courier service, or other means.

(d) *Donations.* (1) Donations of agricultural commodities are eligible for export and reexport to Cuba under License Exception AGR, provided the transaction meets the requirements and procedures of this license exception (except the written contract requirement).

(2) Donations of food items to non-governmental organizations (NGOs) and individuals in Cuba may also be eligible for License Exception GFT. See §740.12 for eligibility requirements of gift parcels and humanitarian donations under License Exception GFT.

[66 FR 36681, July 12, 2001, as amended at 73 FR 49329, Aug. 21, 2008; 75 FR 17054, Apr. 5, 2010; 75 FR 31681, June 4, 2010]

§ 740.19 Consumer Communications Devices (CCD).

(a) *Authorization.* This License Exception authorizes the export or reexport of commodities and software described in paragraph (b) to Cuba subject to the conditions in paragraphs (c) and (d) of this section. This section does not authorize U.S.-owned or -controlled entities in third countries to engage in re-exports of foreign produced commodities to Cuba for which no license would be issued by the Treasury Department pursuant to 31 CFR 515.559. Cuba is the only eligible destination under this License Exception.

(b) *Eligible Commodities and Software.* Commodities and software eligible for export or reexport under this section are:

(1) Computers designated EAR99 or classified under Export Control Classification Number (ECCN) 4A994.b that do not exceed an adjusted peak performance of 0.02 weighted teraflops;

(2) Disk drives and solid state storage equipment classified under ECCN 5A992 or designated EAR99;

(3) Input/output control units (other than industrial controllers designed for chemical processing) designated EAR99;

(4) Graphics accelerators and graphics coprocessors designated EAR99;

(5) Monitors classified under ECCN 5A992 or designated EAR99;

(6) Printers classified under ECCN 5A992 or designated EAR99;

(7) Modems classified under ECCNs 5A991.b.2, or 5A992 or designated EAR99;

(8) Network access controllers and communications channel controllers classified under ECCN 5A991.b.4 or designated EAR99;

(9) Keyboards, mice and similar devices designated EAR99;

(10) Mobile phones, including cellular and satellite telephones, personal digital assistants, and subscriber information module (SIM) cards and similar devices classified under ECCNs 5A992 or 5A991 or designated EAR99;

(11) Memory devices classified under ECCN 5A992 or designated EAR99;

(12) “Information security” equipment, “software” (except “encryption source code”) and peripherals classified under ECCNs 5A992 or 5D992 or designated EAR99;

(13) Digital cameras and memory cards classified under ECCN 5A992 or designated EAR99;

(14) Television and radio receivers classified under ECCN 5A992 or designated EAR99;

(15) Recording devices classified under ECCN 5A992 or designated EAR99;

(16) Batteries, chargers, carrying cases and accessories for the equipment described in this paragraph that are designated EAR99; and

(17) “Software” (except “encryption source code”) classified under ECCNs 4D994, 5D991 or 5D992 or designated EAR99 to be used for equipment described in this paragraph (b).

(c) *Donation requirement.* This License Exception authorizes the export or re-export of eligible commodities and software that will be donated by the exporter or reexporter to an eligible

end-user or to eligible end-users free of charge. The payment by an end-user of any handling charges arising within the importing country or any charges levied by the government of the importing country shall not be considered a charge for purposes of this paragraph.

(d) *Eligible end-users*—(1) *Organizations.* This License Exception may be used to export or reexport eligible commodities and software to and for the use of independent non-governmental organizations. The Cuban Government or the Cuban Communist Party and organizations they administer or control are not eligible end-users.

(2) *Individuals.* This License Exception may be used to export eligible commodities and software to and for the use of individuals other than the following officials of the Cuban Government and Cuban Communist Party:

(i) *Ineligible Cuban Government Officials.* Ministers and vice-ministers; members of the Council of State; members of the Council of Ministers; members and employees of the National Assembly of People’s Power; members of any provincial assembly; local sector chiefs of the Committees for the Defense of the Revolution; Director Generals and sub-Director Generals and higher of all Cuban ministries and state agencies; employees of the Ministry of the Interior (MININT); employees of the Ministry of Defense (MINFAR); secretaries and first secretaries of the Confederation of Labor of Cuba (CTC) and its component unions; chief editors, editors and deputy editors of Cuban state-run media organizations and programs, including newspapers, television, and radio; or members and employees of the Supreme Court (Tribuno Supremo Nacional).

(ii) *Ineligible Cuban Communist Party Officials.* Members of the Politburo; the Central Committee; Department Heads of the Central Committee; employees of the Central Committee; and the secretaries and first secretaries of provincial Party central committees.

[74 FR 45989, Sept. 8, 2009]